

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

APR 06 1982

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(4) of the Internal Revenue Code.

The information submitted discloses that you were incorporated on [REDACTED] [REDACTED], to act as agent for the civic and social benefit and betterment of the residents and property owners of [REDACTED] [REDACTED], and for any and all other property which is accepted by you for similar purposes. You are authorized to exercise all of the powers and privileges and perform all of the duties and obligations of the property owners; to promote and provide any activity or service conducted for the mutual benefit of residents and owners; and to have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation law of the State of [REDACTED] may exercise.

The lot owners in the subdivision are members and subject to assessment of maintenance fees. The termination of membership or the resignation of members operates to forfeit all privileges of membership and all of the rights to the use of any property belonging to you.

Article XI of your bylaws provides for payment of dues of \$[REDACTED] per year. The dues will be used for maintenance of the roads, buildings, swimming pool, and common areas. Article 20 of your amended Covenants and Restrictions states: [REDACTED] or its assigns, namely [REDACTED] [REDACTED], reserves the right to enter upon vacant or unattended lots for the purpose of improving its general appearance, mowing weeds, removal of trash or trivia, etc., without being classified as a trespasser, or being liable for damage to property removed.

In your board meeting of [REDACTED], you voted to withdraw your action to become a part of the County roads system to keep out trespassers. You will continue to do your own road maintenance.

In the minutes of your board meeting of [REDACTED] [REDACTED], you note that it is the wish of the Property owners to keep your roads private.

In your [REDACTED] [REDACTED] letter to the property owners, you state that you have had the swimming pool and tennis court painted and put in good repair, along with the lavatories. You have locks on the gates to keep out the undesirables you have had in the past.

[REDACTED]

In your newsletter Volume 1, No. 2, you state that the [REDACTED] and all facilities on the common grounds will be locked with padlocks. All paid up members will be given a key at the office. Only members who are in good standing will be allowed to use the facilities that they have paid for.

Section 501(c)(4) of the Internal Revenue Code provides exemption for:

"Civic Leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare..."

Section 1.501(c)(4)-1 of the regulations provides, in part, as follows:

"(a)(1) In general. A civic league or organization may be exempt as an organization described in section 501(c)(4) if -

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare."

"(a)(2)(i) An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements \*\*\* The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.\*\*\*"

Revenue Ruling 74-99, 1974-1 Cumulative Bulletin 131, holds that in order for a homeowners' association to qualify for exemption under section 501(c)(4) of the Code, it must have the following characteristics:

1. The organization must serve a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as governmental;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common area or facilities must be for the use and enjoyment of the public as distinguished from controlled use or access restricted to the members and their guests.

Revenue Ruling 69-280, 1969-1 Cumulative Bulletin 152, holds that a nonprofit organization formed to provide maintenance of exterior walls and roofs of homes of members who own houses in a development is not exempt as a social welfare organization.

Based on information submitted, we have concluded you do not meet the requirements of section 501(c)(4) of the Code. There is no evidence indicating that you are a geographical unit bearing a reasonably recognizable relationship to an area ordinarily identifiable as a governmental subdivision. In fact, it appears that you are an aggregation of lot owners bound together in a structured unit formed as an integral part of a planned recreational and housing development, for the use and general benefit of the owners. You maintain private lots through mowing and cleaning efforts. This is a direct benefit to members and is considered a service similar to the maintenance of walls and roofs of members' homes described in Revenue Ruling 69-280. Furthermore, your recreational facilities are for the use of your members and their guests and are not open to the general public as required by Revenue Ruling 74-99.

Revenue Ruling 75-494, 1975-2 Cumulative Bulletin 214, held that while homeowners' associations may be exempt as social clubs, maintenance of residential streets, trash collection, enforcing restrictive covenants, and providing police protection are not social or recreational activities and will preclude exemption.

You are maintaining a road and water system. These activities are prohibited by Revenue Ruling 75-494.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in either section 501(c)(4) or 501(c)(7) of the Code, and you are required to file income tax returns on Form 1120 or Form 1120-H.

As a homeowners' association, you may qualify for treatment under section 528. In this letter we are not ruling on the question of whether you qualify for treatment under section 528. However, if you believe you qualify for such treatment, you should file Form 1120-H when due.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

**[REDACTED]**

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

**[REDACTED]**  
Acting District Director

Enclosures:  
Publication 892  
Publication 538  
Form 6018  
Form 1120-H (1981)